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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------|-------------|--------------------------|---------------------|------------------|
| 10/691,471 | 10/21/2003 | Vivien Ann Munoz-Ferrada | FBRIC44.001AUS | 5957 |
| 20995 | 7590 | 04/04/2005 | EXAMINER | |
| KNOBBE MARTENS OLSON & BEAR LLP | | | BRUCE, DAVID VERNON | |
| 2040 MAIN STREET | | | ART UNIT | PAPER NUMBER |
| FOURTEENTH FLOOR | | | | |
| IRVINE, CA 92614 | | | 2882 | |

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|----------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/691,471 | MUNOZ-FERRADA ET AL. | |
| | Examiner | Art Unit | |
| | David V. Bruce | 2882 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-8, 12-19, 23-30, 34-36 and 40-42 is/are rejected.
- 7) Claim(s) 9-11, 20-22, 31-33 and 37-39 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 March 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date ____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7, 34-36, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Reitan US 5,600,574 A. Reitan shows all of the features of the instant invention including testing the performance of an x-ray/imaging facility/processor by measuring optical density of a test film/image of a phantom/sensitometric strip and creating a report/log (abstract, column 2 line 48-column 3 line 9, column 5 lines 39-53, Table 1, column 11 lines 31-54, column 13 lines 41-50, column 23 lines 21-43, column 27 lines 12-49, and column 27 line 65-column 28 line 13).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6, 8, 12-19, 23-30, and 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reitan US 5,600,574 A. Reitan shows all of the features of the instant invention including testing the performance of an x-ray/imaging facility/processor by measuring optical density of a test film/image of a phantom/sensitometric strip and creating a report/log (abstract, column 2 line 48-column 3 line 9, column 5 lines 39-53, Table 1, column 11 lines 31-

54, column 13 lines 41-50, column 23 lines 21-43, column 27 lines 12-49, and column 27 line 65-column 28 line13). Reitan fails to show the use of a 16-bit scanner (Reitan uses a 12 bit scanner) with an alignment template. The use of alignment marks (template) and 16 bits grayscale (48 bits color) is well known for flatbed scanners. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use a 16 bit grayscale (48 bit color) scanner with alignment marks (template) instead of the 12 bit (36 bit color) scanner motivated by the desire to have decreased quantization error and decreased alignment error (as taught by Reitan column 13).

Allowable Subject Matter

5. Claims 9-11, 20-22, 31-33, and 37-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: In the claims as claimed, the allowable subject matter includes a specific list of calculated performance indicators that would be reported. This set of indicators is neither shown nor fairly suggested in the prior art.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shimoji US 2004/0150709 A1 shows x-ray image system calibration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David V. Bruce whose telephone number is (571) 272-2487. The examiner can normally be reached on M - Th and alt Fri 8:00 - 4:30 subject to I-Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J. Glick can be reached on (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David V Bruce
Primary Examiner
Art Unit 2882

dvb